

House Committee Activity: February 24 - 25, 2004

**House Research
Division:**

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Conservation and Environment
Transportation

Matt Barnes

Agriculture
Commerce

Paige Edwards

Judiciary

Lawrence Hall, Jr.

State and Local Government

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Health and Human Resources

Shannon Romain

Children and Family Affairs
Consumer & Employee Affairs

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Members of the Health Care Facilities Subcommittee listen as nursing home fire safety bills are discussed. This week, members heard testimony from family members of residents affected by fire tragedies.

In This Week's Review:

House Committee Activity

And

Summaries of Budget Hearings

**Veterans Affairs • Revenue • Safety • TBI • Military
Homeland Security • Administrative Office of the Courts
Post Conviction Defenders • District Attorneys • Public Defenders**

Agriculture

Matt Barnes

Full Committee

The **Agriculture Committee** met Tuesday in Room 16, where the Agriculture Committee will meet for the remainder of session. Chairman Davidson encouraged members who have bills in Agriculture or elsewhere, for that matter, to put them on notice.



*Chairman Davidson (right),
Vice Chairman Bone*

HJR 774 (Brooks, Henri) expresses the General Assembly's support for the Black Farmers and Agriculturalists Association in its efforts to remedy past discrimination against black farmers by the U.S. Department of Agriculture. The resolution was rolled until March at the sponsor's request.

HB 2900 (Davidson) revises the method used to calculate escrow fund overpayments by tobacco manufacturers not participating in the Master Settlement Agreement. Present law requires manufacturers either to participate in the Agreement or annually place funds into escrow for each unit of tobacco product sold. Chairman Davidson said 46 states passed such a law. However, the state attorneys general, who also approved the law, discovered a loophole that allowed for refunding of amounts paid in excess of what the non-participating manufacturers would have paid had they participated. Chairman Davidson said, since such refunding is counter to the original intent of the law, this bill ensures non-participating manufacturers place into escrow only the appropriate amounts and that such payments remain in escrow. The bill passed to Calendar and Rules.

Rep. Bowers reminded the committee that the rules were suspended at Monday night's session to allow for the consideration of **SJR 683** in Agriculture this week. The resolution designates the fourth Tuesday in February, which was this Tuesday, as "Spay Day Tennessee" and urges all pet owners in the state to help control the pet population by having their pets spayed or neutered. The resolution passed to Calendar and Rules.

Rep. Shaw announced that representatives from B&G Logging Co., located in his district, would be at next

week's meeting. He said the company recently earned the title of "Loggers of the Year" in Hardeman County.

The **Agriculture Subcommittee** did not meet.

Children & Family Affairs

Shannon Romain

The **full committee** met on Tuesday with two bills on the calendar. **HB 2546** (Rep Fowlkes) was referred to the Calendar and Rules Committee. The bill gives juvenile court judges the discretion to request placement reviews with the Department of Children's Services within 90 days following the court ordered placement of a child in state custody. The court is authorized to make recommendations on the placement during the review hearing, however, the department may exercise its discretion on implementing the recommendations. **HB 2782**, also by Rep. Fowlkes, was deferred one week pending an amendment. The legislation gives local education agencies the discretion to assess hardships resulting in the creation of a power of attorney on a case-by-case basis for the purposes of school enrollment.

In the **Domestic Relations Subcommittee** there were six bills on the calendar. **HB 3062** (Rep. Buck) was referred to the full committee. The bill allows the security for a bond to be deemed sufficient by the court, as well as the clerk of the court or the sheriff, when a person in arrears on child support requires a bond. **HB 2973** (Rep. Bowers) makes violating an order of protection a Class A misdemeanor. If an offender is sentenced, the sentence must be served day for day. If probation is ordered it must be a mandatory two-year minimum. The bill also sets out conditions that can be imposed in ex parte orders of protection. **HB 2335** (Rep. Bowers) failed for lack of a second. The legislation required courts to automatically order joint custody if the

parents agreed to joint custody, as well as in circumstances where the parents disagree but either parent requests joint custody.



Rep. Overbey

HB 2425 (Rep. Overbey) was amended and referred to the full committee. As amended, the bill extends

the circumstances which automatically necessitate a hearing for grandparent visitation when visitation has been opposed by the custodial parent(s). Under the amended provision, if the child and grandparent(s) "had a significant existing relationship" for 12 or more months that was severed by the parents for any reason other than abuse or danger of substantial harm to the child, and the severance of the relationship will likely result in "substantial emotional harm" to the child, then the court must grant a hearing. The amendment deleted the bill's requirement that there must be "severe emotional harm" to the child to necessitate a hearing. According to an attorney general's opinion requested by the senate sponsor, severe emotional harm is probably a higher threshold than is constitutionally required under *Hawk v. Hawk*, 855 S. W. 2d 573 (Tenn. 1993), the prevailing case law on grandparent visitation. Rep. Maddox's motion to amend the bill to necessitate a hearing if there was a threat of "substantial" emotional harm was passed unanimously. The bill does not have any substantial effect on whether or not visitation is ultimately granted by the court. In addition to making a finding of harm to the child, the court must also determine that visitation is in the best interest of the child. **HB 2666** (Rep. Johnson) and **HB 2572** (Rep. Hackworth) were deferred for one week.

The **Family Justice Subcommittee** did not meet this week, as there were no bills on the calendar.

Commerce

Matt Barnes

Full Committee

At this Tuesday's meeting of the **Commerce Committee**, Rep. Brenda Turner recognized Reps. Walker and Wood for their efforts while serving as legislators and members of the Commerce Committee. Chairman Hargrove said "both have left their marks on the entire fabric of our state." Reps. Walker and Wood expressed their gratitude to the other members.

- Passed to Calendar and Rules:

HB 2275 (Brooks, Harry) allows correctional officers who have completed basic correctional training programs to be issued "unarmed security guard/officer" registration cards without completing additional training for such cards.

HB 2597 (Curtiss), as amended, requires professional land surveyors to search the land records kept in the register of deeds office on the land to be surveyed, as well as the adjoining land, and compare such records to the actual field survey. Surveyors shall also consult whatever public documents or unrecorded documents or plats are supplied to them at the time of the survey, but they will not be required to research titles or encumbrances. Rep. Curtiss said 90 percent of surveyors are performing their work as they should and that this bill simply addresses the remaining "bad actors." When a question arose as to the penalty for failing to comply, Rep. Curtiss said for now that would be left to the Board of Examiners for Land Surveyors. The committee adopted the amendment.

- Passed to Finance, Ways, and Means:

HB 2400 (Hargrove), as amended, exempts those licensed as a broker or affiliate broker under the Tennessee Real Estate Broker License Act from the provisions of the "Do Not Call" law. The committee adopted the amendment.

- Rolled for one week:

HB 2519 (Turner, M.) raises per diem payments for members of the Commission on Firefighting Personnel Standards and Education from \$50 to \$100, removing the \$300-per-year cap on commission members



Rep. Turner

who assist local units or attend meetings. The bill also adds travel expenses for those commission members attending the meetings. An Industrial Impact Subcommittee amendment to the bill specifies that the per diem and travel allowance is subject to funding available within the Commission's budget.

Industrial Impact Subcommittee

This Tuesday, the **Industrial Impact Subcommittee** sent **HB 2717** (Shaw), which deals with rate filings by commercial risk insurers, to full committee with an amendment.

In its original form, the bill requires such filings to be made with the Commissioner of Commerce and Insurance at least 30 days *before* the effective date

instead of what is presently required (15 days *after* implementation). Workers' compensation insurers would also file multipliers and supporting information under the same timeframe. Further, the bill calls for the commissioner to develop a proposal to create a natural catastrophic disaster property insurance pool and to present that proposal to the General Assembly by 2005. This pool would help those residential and commercial property owners who lost their coverage because of natural catastrophic disasters and are no longer able to get insurance. The amendment, however, deletes the filing provision and leaves only the requirement that the commissioner develop the insurance pool proposal. (The Senate passed the bill with the same amendment on Monday).

HB 2328 (Harrison) was rolled to next week to get an amendment before the subcommittee. The bill requires MCOs and BHOs in the TennCare program to contract with Federally Qualified Health Centers as facilities.

HB 3050 (McKee) was rolled to the last calendar, and

HB 2916 (West) was taken off notice.

Small Business Subcommittee

The **Small Business Subcommittee** met on Wednesday to consider three bills.

HB 2364 (Bowers) requires applicants for renewal of a contractor license with a monetary limitation of greater than \$2 million to submit, along with the application, a financial statement prepared by an accountant. If the monetary limitation is less than \$2 million, applicants may submit a notarized statement that the information in the financial statement is correct. Rep. Bowers submitted an amendment that made the bill applicable only to residential builders. The subcommittee adopted the amendment and passed the bill to full committee.

HB 2772 (McCord), as amended, prohibits a person from holding an active time-share salesperson license and active acquisition agent license at the same time and allows for the temporary retiring of a license. The bill states an applicant for a time-share salesperson license or acquisition agent license who has passed the examination for either such license in the preceding 12 months shall be deemed to have satisfied the requirements for the pending application. The bill passed as amended to full committee.

HB 3132 (Turner, B.) authorizes the Alarms Systems Contractors Board to promulgate rules relative to tests,

testing requirements, and test fees required for employee registration. The bill was rolled one week.

Utilities and Banking Subcommittee

The **Utilities and Banking Subcommittee** sent all four bills on its calendar to full committee at its Tuesday meeting.

HB 2517 (Turner, M.) exempts from the "Do Not Call" law communications made on behalf of not-for-profit organizations by members, volunteers, and employees of such organizations. The subcommittee adopted an amendment that further exempts communications by authorized representatives of such organizations, so long as the authorized representatives comply with the current registration requirements of Tennessee law.

HB 2304 (Roach) deletes from current law, a law Rep. Roach called "antiquated," the requirement that banks publish a report of their financial conditions in their local newspapers.

HB 2830 (Hood), in its original form, requires private and state-employed fire prevention and building officials to be certified by the state fire marshal, which is currently required of municipal and county officials. The bill also removes the grandfather clause for certain experienced municipal and county officials. Rep. Hood plans to amend the bill in full committee to remove private officials from the certification requirements and to change the effective date.

HB 2340 (Bowers) enacts the "Consumer Right to Know Act," stating if a person contacts a customer service center or

receives a call from such a center, the person has a right to know where the center is located and to whom the person is speaking.

The bill further prohibits the center from sending the person's financial or credit information to a foreign country without expressed written permission.



Rep. Bowers

Conservation & Environment

Greg E. Adkins

Full Committee

The **full Environment Committee** met on Tuesday, February 24, 2004, and considered three bills. **HB 2206** by Rep. Matheny was rolled one week as amended. The amended bill increases the criminal penalty for hunting or shooting on or across a public road and hunting or shooting within 100 yards of a visible dwelling from a class C misdemeanor (not greater than thirty days in jail or a fine not to exceed \$50 or both) to a class A misdemeanor (not greater than thirty days in jail or a fine not to exceed \$1,000 or both). **HB 2731** by Rep. Bunch was rolled one week. The bill permits minors under the age of eighteen to obtain a hunting and fishing license without proof of a social security number. **HB 871** by Rep. Johnson was rolled to the last Committee calendar. The bill would require gasoline sold in Tennessee to contain at least 10% ethanol.

Environment Subcommittee

The **Environment Subcommittee** met on Tuesday, February 24, 2004, and considered three bills. **HB 2548** by Rep. McDonald passed to full committee as amended; the amended bill would allow the Commissioner of TDEC to also consider land application of wastewater in determining if the permit should be denied or approved. **HB 2525** by Rep. Hawk was rolled to the last calendar of the Subcommittee. The bill would change the definition of "water" in the Water Quality Act to waters that have been adjudicated as legally navigable. **HB 222** by Rep. Turner (Davidson) was rolled to March 16, 2004.

Parks Subcommittee

The **Parks Subcommittee** met on Wednesday, February 25, 2004, and considered one bill. **HB 2274** by Rep. Brooks (Knox) passed to full Committee as amended. The amended bill enacts the "State Park Funding Act of 2004." The amendment specifies that it is the intent of the legislature that fee based operations in state parks, such as marinas, golf courses, campgrounds, and resorts are self-sustaining by fiscal year 2007-08. The amended bill also authorizes that all fees collected by park facilities be deposited in a dedicated park fund. None of the money in the park fund will be deposited in the General Fund.

Wildlife Subcommittee

The **Wildlife Subcommittee** did not meet on Tuesday, February 24, 2004.

Consumer & Employee Affairs

Shannon Romain

The **Employee Affairs Subcommittee** was the only subcommittee of the **Consumer and Employee Affairs Committee** to meet this week. **HB 0883** (Rep. Bowers) was deferred one week. The legislation requires the prevailing wage commission to determine the prevailing wage annually for building construction, instead of biennially, and requires the commission to include fringe benefits in its calculation of those wages. The bill was deferred at the request of Chairman West to determine its comprehensive effect on prevailing wages. **HB 2915** (Rep. West), was taken off notice. The bill exempted from the payroll unemployment premium wages paid to injured employees who were unable to return to work for at least 60 days, but who were entitled to worker's compensation.

The **Consumer Affairs Subcommittee** did not meet, as there were no bills on notice. The **full committee**, originally scheduled to meet Wednesday morning, was cancelled. **HB 2917** (Rep. West) and **HB 2754** (Rep. Vaughn) were deferred one week.

Education

Pam Mason

There were five items on the Committee's Wednesday calendar. Action on the legislation follows:

Referred to Finance, Ways and Means:

HB 233 - (Bone) This bill creates the Tennessee National Guard Tuition Assistance Program. Tuition, as funds are available, would be paid for guard members who attend an in-state institution at a rate for Tennessee

supported educational institution. This bill is part of the Governor's proposal.

HB 2437 - (Litz) Renames the University of Tennessee agricultural extension service to the "University of Tennessee extension". This bill was amended to read that no funds beyond those currently budgeted shall be spent for replacement of signs, letterhead, and business cards.

Referred to Calendar & Rules:

HJR 871 - (Winningham) Designates March 4, 2004, as "National Teacher Day".

HJR 872 - (Winningham) Endorses March 2, 2004, as "Read Across America".

Taken Off Notice:

HB 180 - (Stanley)

Following the calendar, Committee members, in recognition of Read Across America, each read from a Dr. Seuss book.

The Committee, in honor of February being Black History Month, next had a dance presentation from students from the Nashville School of the Arts.

K-12 Subcommittee

At its Tuesday meeting the committee took the following actions.

Referred to Full Committee:

HB 2262 - (Cooper) Provides for reimbursement up to \$2,000 for any teacher certified by the National Board for Professional Teaching Standards.

HB 2652 - (Cooper) Continues the special joint committee on mold abatement in public schools to complete its work.

HB 2685 - (Curtiss) Allows for granting of diplomas to veterans of the Korean War.

HB 2635 - (Montgomery) Requires LEA's to develop and adopt policies to encourage parental participation in the schools.



Rep. Montgomery

HB 988 - (Maddox) Allows principals, at their discretion, to spend funds raised by school fund-raising events.

Deferred 1 week:

HB 2422 - (Kernell)

HB 2341 - (Armstrong)

HB 3006 - (Armstrong)

HB 2574 - (Hackworth)

Deferred 4 weeks:

HB 252 - (Stanley)

Higher Ed Subcommittee

The following actions were taken at the **Higher Education Subcommittee** on Tuesday.

Recommended to Full Committee:

HB 2243 - (Shepard) As amended, this bill requires the Select Oversight Committee on Education to annually assess the impact of affordability and accessibility of higher education in Tennessee.

HB 2684 - (Curtiss) Adds three (3) additional medals as qualifying medals to present law regarding education assistance for children and spouses of armed service members.

HB 2690 - (Curtiss) Reduces the number of semester hours from 150 to 136 that a student, who is a child of either a POW, MIA, or veteran killed in action, may accumulate before losing educational benefits.

HB 2691 - (Curtiss) Makes step-children of POWs, MIAs, or veterans killed in action eligible for a waiver of tuition and fees at public higher education institutions in the state.

Deferred 3 weeks:

HB 2686 - (Curtiss)

HB 2689 - (Curtiss)

Taken off Notice:

HB 877 - (Johnson, R)

Finance, Ways & Means

Julie Travis

The Full Committee

Tuesday, February 24, 2004

The full committee met on Tuesday to discuss four bills on the full committee's regular calendar and the "Consent" calendar. Three of the four bills (**HB 2159**, **HB 2763**, and **HB 1611**) were referred to Calendar and Rules. **HB 2172** (Rep. M. Turner) was the exception, as it was deferred for three weeks at the request of the sponsor.

The bills referred to Calendar and Rules are summarized below:

HB 2159 (Rep. McDaniel) provides for the installation of highway signs designating a 3-mile section of I-40 in Henderson County as the memorial highway for the late Mr. Lofton Eugene Gateley.

HB 2763 (Rep. Fitzhugh) specifies that the balance in the collateral pool for public deposits must not exceed 110 percent of the *average daily balance* during the preceding twelve months.

HB 1611 (Rep. West), as amended by the House Consumer and Employee Affairs Committee, permits an employee to choose from an employer-designated group of three or more reputable physicians/surgeons from the same community and who are not in association with one another, and would require that in cases involving a back injury, a chiropractor be added to the group. To help prevent over-billing, the bill, as amended, limits an employer's liability to those charges which are similar to those by other doctors in the community giving similar treatments. It also limits an employee to twelve visits for each approved back injury. The provisions relating to back injuries do not apply to state or local government employees or to workers' compensation self-insurer pools. The provisions of the bill as amended would also sunset on June 30, 2005.

The committee also continued on Tuesday with Budget Hearings by reviewing the Treasury Department's budget. The summary of Treasury's budget hearing will be included in the March 4th edition of *The Research Review*, along with summaries for departments who presented their budgets during the rest of the week (Wednesday, Feb. 25th: Dept. of Education K-12 and the State Board of Education; and Thursday, Feb. 26th: Tenn. Higher Education Commission, University of

Tennessee system, Tenn. Board of Regents, and the Tenn. Student Assistance Corporation).

Budget Subcommittee

Wednesday, February 25, 2004

The Budget Subcommittee of the House Finance, Ways, and Means Committee met to discuss 19 bills on calendar this week. One bill, HB 2187, was referred to full committee and summarized as follows:

HB 2187, by Rep. McKee, authorizes the installation of highway signs designating the US Hwy. 411 viaduct bridge, north of Etowah, in McMinn County, as the Arvil Armstrong Memorial Bridge. Designating signs shall be erected only if McMinn County manufactures and erects such signs or remits the cost to TDOT.

HB 2419, by Rep. Kernell, was referred to the Council on Pensions and Insurance.

The following bills were rolled:

Deferred to the last calendar:

HB 1275 (Patton)

Deferred for 4 weeks:

HB 2621 (Todd)

HB 757 (Hargrove)

Deferred for 3 weeks:

HB 2634 (Crider)

Deferred for 2 weeks:

HB 1567 (Fitzhugh)

HB 253 (Stanley)

HB2228 (Dunn)

Deferred for 1 week:

HB 2541 (Fowlkes)

HB 64 (Overbey) (with an amendment)

HB 554 (Armstrong) (with an amendment)

HB 2176 (M. Turner)

HB 2244 (Shepard)

Special Calendars:

HB 2352 (Overbey) Veterans' Property/Sales tax relief calendar

HB 819 (Pinion) Drivers License calendar

HB 1790 (Rowland) Drivers License calendar

HB 2160 (McDaniel) Veterans' Property/Sales tax relief calendar

HB 2143 (Matheny) Veterans' Property/Sales tax relief calendar

Government Operations

Kristina Ryan

The **Government Operations Committee** met on Tuesday morning to consider fourteen bills on the calendar. **HB 2623** (Godsey) was rolled for three weeks, **HB 2694** (Armstrong) was rolled for two weeks, **HB 2515** (Pinion) and **HB 2843** (Pinion) were both rolled for two weeks, **HB 2330** (Brooks) was rolled for two weeks and **HB 2498** (Kernell) was rolled to next week. The committee voted to have a vote scheduled on the agenda for HB 2498 at the next meeting. **HB 2498** continues the Board of Dispensing Opticians.

HB 2864 by Representative Larry Miller was referred to the State and Local Government Committee. This legislation requires state agencies to vigorously solicit purchasing bids from veteran owned businesses. The Department of Finance and Administration would be responsible for qualifying these businesses and establishing the rules and regulations. The intended goal for this legislation would be that 15 percent of all state purchases would come from veteran owned businesses.

HB 1204 by Representative DuBois was reviewed and referred to the State and Local Government Committee. This bill would enact "The Main Street Act of 2003", which would establish within the Department of Economic and Community Development the Tennessee Main Street Program. This program would support the economic prosperity of communities with a population of less than 100,000. An amendment was adopted to allow this to become permissive legislation within the department.

HB 2630 by Representative Hawk establishes a Worker's Compensation Review Board. This legislation was referred to the Ad Hoc Committee on Worker's Compensation prior to review and referral by Government Operations.

HB 3476 by Representative Tindell Enacts the "Charitable Gaming Operators Licensing Law". This legislation is the second of three bills establishing the structure of the 501 (c) 3 Charitable Gaming legislation that is currently proceeding through the committee process. This bill deals with the licensure of gaming operators who are contracted to administer charitable events on behalf of 501 (c)3 organizations. Section 4 of this bill requires the Secretary of State to maintain a list of operator licenses as well as assessing civil penalties of up to \$50,000 for not complying with the bill's licensure requirements. In addition, the Secretary of State would promulgate rules and set up fees for licensees. The bill

was reviewed and referred to the State and Local Government Committee.

HB 2417 by Chairman Kernell was sent to the Calendar & Rules Committee. This bill is a housekeeping bill that deletes references of the recently terminated Commission on Responsible Fatherhood and Public Safety Committee. This entity was terminated pursuant to the Governmental Entity Review Law.



Chairman Kernell

Sunset Extensions

HB 2465 (Kernell) - Re-authorizes Board of Medical Examiners, June 30, 2006.

HB 2495 (Kernell) - Re-authorizes Board of Osteopathic Examination, June 30, 2008.

HB 2501 (Kernell) - Re-authorizes Board of Electrolysis Examiners, June 30, 2008.

Health & Human Resources

Judy Narramore

Full Committee

The **Health & Human Resources Committee** met at noon on Tuesday, February 24 with six pieces of



Rep. Sontany

legislation on calendar. **HB 2198** by Rep. Sontany as amended was referred to C&R. As amended, HB 2198 requires all nursing homes, assisted care living facilities,

and residential homes for the aged to disclose in writing, to a potential resident or their representative, that the facility does not have a fire suppression sprinkler system throughout the facility, a smoke detector or alarm in each patient room, or neither of these systems. The disclosure is to be posted on signs that are prominently displayed at

all entrances to the facility. If the facility has a web site, the disclosure must also be on that web site. The Department of Health is required to post on the department's web site whether a licensed long-term care facility has a sprinkler system or a smoke detector or alarm in each patient room. **HB 2076** by Rep. Rowland that authorizes the animal control director in Rutherford County, instead of the county trustee, to collect animal control registration fees and to post a bond in sufficient amount to assure that funds collected are properly administered and paid to the county was referred to C&R. **HB 2241** by Rep. Armstrong as amended was referred to C&R. As amended, the only certification accepted when registering as a reflexologist would be the completion of a 200-hour reflexology course offered by an institution approved by THEC or its equivalent in other states. Also, an applicant with a felony conviction would not be barred from registering if the conviction occurred more than 10 years before the person applies. **HB 2872** by Rep. Shepard concerning anatomical gifts was referred to C&R. This bill makes two changes to the Uniform Anatomical Gift Act. A *document of gift* for organ donation is defined to include a card, a will, or a statement on a driver license. The list of persons authorized to make an anatomical gift decision for a decedent is expanded to include persons with a durable power of attorney for health care for the decedent and adults who have shown a special concern for the decedent and who are familiar with the decedent's values. Rep. Armstrong rolled **HB 3344** (regulation of leisure pools) two weeks. **HJR 0740** by Rep. Bowers as amended was referred to FW&M. As amended, HJR 0740 creates a special joint committee to study the prevalence of cervical cancer and human papillomavirus in women in the State of Tennessee and evaluate methods of public education and access to screenings and new technologies.

After completing the calendar, Commissioner Kenneth Robinson, Tennessee Department of Health, gave "Year 2" remarks highlighting recent accomplishments of the Department.



Commissioner Robinson

Mental Health Subcommittee

The **Mental Health Subcommittee** did not have bills on notice and did not meet Tuesday afternoon.

Professional Occupations Subcommittee

The **Professional Occupations Subcommittee** had four bills on notice Wednesday morning, February 25. The subcommittee meeting began with testimony on **HB 3004** (Rep. J. DeBerry) from representatives of the TN Dental Hygienists Association, TN Dental Association, and Board of Dentistry. After considerable discussion, HB 3004 as amended was ultimately referred to full committee on a 6-1 roll call vote. As amended, HB 3004 allows a licensed and permitted dental hygienist under supervision of a dentist to administer local anesthesia. The Board of Dentistry is authorized to establish the qualifications, criteria, and curricula required for issuing a *dental hygienist permit* to administer local anesthesia. Rep. DuBois rolled **HB 3159** (health care providers) three weeks. Rep. B. Turner rolled **HB 3083** (pronouncement of death by RN) one week. Pursuant to a motion by Rep. Hargett, the subcommittee voted to roll **HB 1906** by Rep. McCord (DNR order on a necklace or bracelet) to the last calendar.

Public Health & Family Assistance Subcommittee

Wednesday morning, the **Public Health & Family Assistance Subcommittee** met to consider four pieces of legislation. **HB 3015** by Rep. West concerning alarms in day care vans was discussed at length, including testimony from the Department of Human Services. The bill was ultimately rolled two weeks for further review by the subcommittee members. **HB 3192** by Rep. Maddox as amended that changes the date of renewal for licenses and permits for ambulances or emergency service vehicles from December 31 to June 30 was referred to full committee. Under this bill, licenses and permits issued in 2004 would expire on June 30, 2005. **HB 3229** by Rep. West as amended that rewrites the "Tennessee Anti-Rabies Law" was referred to full committee. **HJR 0792** by Rep. Pruitt (data collection regarding violent deaths among Tennessee children) was rolled one week.

Health Care Facilities Subcommittee

The **Health Care Facilities Subcommittee** had six bills on calendar Wednesday afternoon. Prior to taking up the legislation, the subcommittee heard public testimony from family members of residents that died or were seriously injured in a fire at an assisted care living facility in Blount County in January 2004.

Two nursing home fire safety related bills by Rep. Curtiss were referred to full committee. **HB 2392** as amended requires and staggers installation requirements for sprinklers in nursing homes depending on the physical layout of the facility. **HB 3415** requires nursing homes without sprinklers to install smoke alarms in every patient room within 90 days of the effective date of the bill, and further, to submit a plan within 6 months or 11 months, depending on the physical layout of the facility, for installing sprinklers. Rep. Hagood rolled **HB 2585** (fire safety in nursing homes and campus dorms) two weeks. **HB 2554** by Rep. Overbey was referred to full committee with a verbal amendment that rewrites the bill to require assisted care living facilities and residential homes for the aged to install sprinklers and smoke detectors in a manner similar to that for nursing homes required in HBs 2392 and 3415. **HB 3010** by Rep. L. DeBerry that would require only one set of schematics, rather than two sets of plans and specifications, be submitted to the Department of Health for approval in situations involving the conversion of an existing single family dwelling into a licensed health care facility with no more than six beds was referred to full committee. Rep. Winningham rolled **HB 2557** (MH&DD pilot program) three weeks.

Judiciary

Paige Edwards

Criminal Procedure & Practice

On Tuesday, the **Criminal Procedure & Practice Subcommittee** met to consider 11 bills. HB 652 by Representative Stanley was referred to the House Judiciary Summer Study Committee. HB 3053 by Representative Newton and HB 2850 by Representative Cochran were rolled for two weeks. HB 2421 by Representative Kernell, HB 2263 by Representative Cooper, and HB 2264 by Representative Cooper were rolled for one week.

Also, the subcommittee heard testimony concerning HB 3391 by Representative Briley that relates to telecommunications theft. HB 3391 represents the issues that were addressed in the study committee that was held during the interim. HB 3391 was rolled for one week. The subcommittee plans to hear testimony from other interested parties next week.

The following four bills were approved for passage and referred to the full committee:

- **HB 2661** by Representative Briley revises the law for pawnbroker transactions. Under this bill, a pawnbroker must record a complete and accurate description of the pledged goods, including the brand name, model number, serial number, size, color, precious metal type, gemstone description, and any other unique identifying information. When firearms are pawned, the description shall include the type of action, caliber or gauge, number of barrels, barrel length, and finish.
- **HB 2753** by Representative Vaughn, as amended, creates the "Robert 'Robbie' Nottingham Campus Crime Scene Investigation Act of 2004." This bill requires local law enforcement and campus security to jointly investigate alleged rapes or deaths that occur on a college campus. In the case of a medically unattended death, the local law enforcement agency shall lead the investigation. In the case of an alleged rape, the college's law enforcement agency shall lead the investigation. A knowing violation of this bill is punishable as a Class C misdemeanor.
- **HB 2651** by Representative Brooks (Shelby), as amended, creates a pilot project for the Tennessee Highway Patrol to participate in a racial profiling study. The comptroller would provide a form to be used by highway patrolmen when traffic stops occur. The highway patrol would submit this data to the comptroller on a monthly basis, beginning no later than February 1, 2005. The comptroller would report the results of the pilot project to the governor and general assembly no later than April 1, 2006. The pilot project would be in effect until July 1, 2006.
- **HB 2659** by Representative Briley authorizes the electronic submission of final dispositions for criminal cases to the TBI. Jurisdictions that submit final disposition reports electronically will not use R-84 Disposition Cards.

Constitutional Protections Subcommittee

On Tuesday, the **Constitutional Protections Subcommittee** met to consider four bills. HB 1637 by Representative West and HB 2626 by Representative Bittle were rolled for one week.



HB 1622 by Representatives West and Cochran was referred to the full committee. HB 1622, as amended, revises the requirements for obtaining a handgun carry permit. Under this bill, it shall be confirmed, under oath, that an applicant has not been convicted or is not currently under indictment for a felony, DUI, or misdemeanor crime of domestic violence.

Also, **HB 2629** by Representative Buttry creates permissive legislation for the use of shooting ranges. Under this bill, all law enforcement agencies are encouraged to open their shooting ranges for public use when not in use by law enforcement personnel. This bill specifies that a reasonable fee may be charged for the use of the shooting range and that users of the shooting range may be required to make improvements.

Judicial Administration Subcommittee

On Tuesday, the **Judicial Administration Subcommittee** met to consider six bills. HB 2170 by Representative Turner (Davidson) was referred to the **Constitutional Protections Subcommittee**. HB 2306 by Representative Matheny and HB 992 by Representative Johnson (Loudon) were taken off notice. HB 3379 by Representative Coleman was rolled for one week.

HB 2637 by Representative Bunch was referred to the full committee. HB 2637 requires popular elections for Tennessee Supreme Court Judges and appellate court judges. This bill abolishes the Tennessee Plan of judicial selection and evaluation. Also, this bill changes the three grand divisions in the state for judicial elections. Bledsoe, Cumberland, Marion, Meigs, Morgan, Rhea, Roane, and Scott counties would move from the Eastern Division to the Middle Division. Dickson, Giles, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Montgomery, Perry, Stewart, and Wayne counties would move from the Middle Division to the Western Division.

Also, **HB 2356** by Representative Johnson (Loudon), as amended, was referred to the full committee. This bill makes various revisions for notaries public. Two major changes that are proposed in this bill include eligibility requirements for individuals who apply for election as a notary and a \$7.00 fee charged by the county clerk when the notary changes residence or principal place of business.

Civil Procedure & Practice Subcommittee

The **Civil Procedure & Practice Subcommittee** was cancelled on Wednesday. All of the bills on the calendar were rolled for one week.

The Full Committee

On Wednesday, the **Judiciary Committee** met to consider fifteen bills. HB 1757 by Representative Maddox and HJR 773 by Representative Brooks (Shelby) were taken off notice. HB 2695 by Representative Maddox was rolled to the last calendar of the committee. HB 3041 and HB 2351, both sponsored by Representative Briley, were rolled for three weeks. HB 2326 by Representative McDonald, HB 2197 by Representative McDonald, and HB 2595 by Representative Curtiss were rolled for one week.

The following five bills were approved for passage and referred to **Calendar & Rules**:

- **HB 2813** by Representative Coleman, as amended, authorizes the department of children's services to request a criminal history background check of each adult residing in a home where a foster child is placed for emergency situations. The TBI and the FBI may charge a reasonable fee for processing a fingerprint-based criminal history record check pursuant to the provisions of this bill.
- **HB 3130** by Representative Overbey allows the county clerk of Blount County to serve as clerk of the court with probate jurisdiction.
- **HB 2906** by Representative Hackworth, as amended, concerns juror compensation. Upon request, the juror's employer shall receive a statement that shows the number of hours that the juror spent serving if service is less than three hours.
- **HB 2885** by Representative Coleman amends the present law concerning medical records. This bill makes technical corrections to coincide with the language that is used in the federal law.
- **HB 2999** by Representative Newton reduces the time that shall elapse before a garagekeeper or towing firm may enforce a lien upon a vehicle. Under this bill, the lien may be enforced after 30 days. Under present law, the lien may be enforced after 60 days.

The following two bills were approved for passage and referred to **Finance, Ways, & Means**:

- **HB 2884** by Representative Coleman, as amended, creates another theft offense. This bill creates a Class A misdemeanor for a person to knowingly record a motion picture without proper consent. Individuals who violate the provisions of this bill may be detained either on or off the premises of the motion picture establishment in the same manner that is used when an accused shoplifter is detained. This bill would not affect investigative or intelligence-gathering activities by law enforcement. Likewise, this bill would not apply to sales demonstrations in retail establishments.
- **HB 2366** by Representative Bowers designates a

general sessions court in Shelby County as the mental health court. This court would have the power

to hear cases involving petitions filed under the mental health law and mental commitments

State & Local Government

Lawrence Hall, Jr.



The Full Committee

Chairman Jones, Vice Chairman Langster

This week in **State and Local Government** full committee, the committee passed **HJR 815**, by Rep. Yokley to Calendar and Rules. This resolution urges the recognition of God and the freedom of religion as the foundation of our state and national heritage. **HB 3250**, by Rep. Tindell, enacts the "Tennessee Charitable Gaming Implementation Law." This bill creates a process for charitable organizations with 501(c)(3) status to hold one game of chance per year. This bill was passed to Finance, Ways, and Means.

The committee passed **HB 2890**, by Rep. Head to Calendar and Rules. This bill creates methods for filling vacancies as well as removing commissioners on utility district boards of commissioners. **HB 3120**, by Rep. Yokley places all references to a sheriffs' duties into one section of the code. This bill was passed to Calendar and Rules. The full committee passed **HB 3175**, by Rep. McMillan to Finance, Ways, and Means. This bill allows county election commissions to establish an internet-based electronic filing process for local candidates and political campaign committees for local elections.

State Government Subcommittee

State Government Subcommittee considered and passed **HB 2683**, by Rep. Curtiss to full committee. This bill authorizes counties and municipalities to create veteran services offices for all veterans rather than just for veterans of wars. **HB 2509**, by Rep. Miller, requires the lottery board to report semi-annually on minority participation to the entire General Assembly. This bill was passed to full committee. **HB 2510**, also by, Rep. Miller was passed to full committee. This bill requires that a state government disparity study be conducted to determine the level of minority participation in state contracting. **HB 2240**, by Rep. Tindell was passed to full committee. This bill, as amended, will create fines and incarceration for violating the laws governing the 501(c)(3) charitable gaming.

Local Government Subcommittee

Local Government Subcommittee passed **HB 2063**, by Rep. Hensley, to full committee. This bill revises the way utility district members are replaced by allowing the customers to elect the members of the board. **HB 3356** by Rep. Buck restores several constable positions in DeKalb County. This bill was passed to the full committee.

Elections Subcommittee

Elections Subcommittee passed one bill to full committee. **HB 2709**, by Rep. Maddox requires county election officials to be on location and conduct a voter registration drive when a planned and scheduled group naturalization ceremony is being conducted.

Transportation

Greg E. Adkins

Full Committee

The **full Transportation Committee** met on Wednesday, February 25, 2004, and considered nine bills. **HB 2805** by Rep. Hagood was sent to the special license plate ad hoc committee as amended. The amended bill would require cultural and specialty earmarked license plates to be issued administratively by the Department of Safety, instead of by specific legislative enactment. The plates cannot be issued if the Commissioner determines they are obscene, duplicative, or interfere with motor vehicle enforcement. **HB 2846** by Rep. Dunn passed to C&R as amended. The amended bill clarifies that existing statute concerning rear light illumination for license plates only applies to motor vehicles or tractor trailers at the end of the train of vehicles and not to individual motor vehicles. **HB 2975** by Rep. DeBerry (John) was passed to FW&M. The bill increases the Shelby County Clerk fee for issuing motor vehicle license plates from \$1.50 to \$2.50.

The following highway sign bills passed to FW&M:

1. **HB 2141** by Rep. Head--"Roscoe Pickering Memorial Bridge" sign in Montgomery County (Passed with an amendment designating a new bridge for the sign to be placed on).
2. **HB 2140** by Rep. McDonald--"Corporal Patrick R. Nixon Memorial Bridge" sign in Sumner County.
3. **HB 2674** by Rep. Stanley--"Robert C. Lanier Bridge" sign in Shelby County.

The following special license plate bills passed to FW&M:

1. **HB 2789** by Rep. Hargrove authorizes the issuance of the Tennessee Councils of Boy Scouts of America new specialty earmarked plates. The amendment clarifies that the funds raised in the bill would be distributed based on what each Boy Scout Council sold.
2. **HB 2540** by Rep. Patton authorizes the issuance of the Children's Hospital at Johnson City Medical Center new specialty earmarked plates.

HB 2814 by Rep. Pruitt was rolled one week. The bill authorizes the issuance of the Promotion of Organ Donation Awareness in Tennessee new specialty earmarked plates.

Public Safety & Rural Roads Subcommittee

The **Public Safety & Rural Roads Subcommittee** met on Tuesday, February 24, 2004, and considered five bills. **HB 2181** by Rep. Dunn (Hydens law--drivers license suspension for a person 21 years or younger, if 8 points are accumulated on a driving record) was taken off notice. **HB 2212** by Rep. Wood passed to full committee as amended. The amended bill would increase the fee paid to a county clerk for titling a motor vehicle from \$3.00 to \$5.00 and would keep the charge at \$1.00 for the computer fee, which is set to sunset in June of 2004. **HB 2196** by Rep. McDonald passed to full committee. The bill would require trailers newly manufactured and sold in Tennessee with a GVWR of 3,000 lbs. or less be equipped with new tires. **HB 2195** by Rep. McDonald passed to full committee. The bill requires trailers manufactured and sold in Tennessee to have the identification number stamped in the frame and not placed on a metal plate. The law would take effect on January 1, 2005. **HB 557** by Rep. Jones (Shelby) was rolled to March 23, 2004.

Public Transportation & Highways Subcommittee

The **Public Transportation & Highways Subcommittee** met on Wednesday, February 25, 2004, and considered eleven bills.

The following highway sign bills passed to full committee:

1. **HB 2191** by Rep. Walker--"Raymond Shadden Memorial Highway" sign near Crossville.
2. **HB 2267** by Rep. Harmon--"Grady Lester Davis Memorial Highway" and "Wilson Von Rohr Memorial Highway" signs in Sequatchie County.
3. **HB 2555** by Rep. McDaniel--"Hearn's Lane" highway sign.

The following new specialty earmarked license plate bills passed to full committee:

1. **HB 3211** by Rep. Stanley--"Raise Public Awareness about Autism" license plates.
2. **HB 3357** by Rep. Patton--"American Cancer Society Relay for Life" license plates.

HJR 858 by Rep. Head passed to full committee. The resolution requests the Comptroller to study the process by which counties procure and produce asphalt. The study will look at the effectiveness, cost, and variations among counties with the respect to the production of asphalt.

The following bills were rolled one week: (1) **HB 2236** by Rep. Turner (Hamilton), (2) **HB 3082** by Rep. Turner (Hamilton), (3) **HB 3098** by Rep. DuBois, and (4) **HB**

Budget Hearings



Veterans Affairs ▪ Revenue ▪ Safety
TBI ▪ Military
Homeland Security
Administrative Office of the Courts
Post Conviction Defenders
District Attorneys ▪ Public Defenders

Department of Veterans Affairs

Shannon Romain

Research Analyst, Consumer & Employee Affairs, Children & Family Affairs

John Keys, Commissioner of the Department of Veteran Affairs, testified before the Finance, Ways and Means Committee last Tuesday. The department was exempted from the mandatory 5% budget reduction imposed by Governor Bredesen.

The Department of Veterans Affairs serves more than one and a half veterans, their survivors, and dependants and operates a veterans cemetery in each of the grand divisions. During fiscal year 2002-2003, departmental representation resulted in \$293,210,533 in federal awards to Tennessee veterans.

For every state dollar allocated, the department receives \$197 in matching federal funds. Consequently, any budget reductions could potentially jeopardize federal funding.

The department's only improvement request is funding to update its stand-alone computer system to include software that would assist personnel in management and record keeping.

	Base 2004-2005	Improvement 2004-2005	Recommended 2004-2005
Full-time	64	0	64
Part-time	0	0	0
Total	64	0	64
Payroll	2,473,900	0	2,473,900
Operational	710,400	122,000	832,400
Total	\$3,184,300	\$122,000	\$3,306,300
State	2,741,600	\$122,000	2,863,600

Federal	360,000	0	360,000
Other	82,700	0	82,700

Department of Revenue

Julie Travis

Research Analyst, Finance, Ways & Means

Commissioner Loren Chumley presented the committee with the Department of Revenue's FY 04-05 budget on February 17th. The Department's **total budget request for fiscal year 04-05 is \$62,446,400**, of which \$43,646,000 is state appropriation. The remaining is comprised of \$18,778,400 in other dollars and \$22,000 in federal funds.

The Department had a decrease of \$1,397,300 in the budget from last year's total state appropriation. The Commissioner also explained the Department's actual Recurring Budget Reduction of \$242,300, which consists of a cut to Informational Systems Projects and a reduction in Excess Payroll Benefits. This year, the department has a base budget enhancement of four full-time positions to fulfill the department's obligation under 2003 Public Chapter 264, dealing with the administration and enforcement of new tobacco laws.

The Department has had significant success with Electronic Commerce (E-filing) as demonstrated by the following chart, showing the increased numbers using E-filing and the growing amount of revenue generated.

DEPT. OF REVENUE'S E-FILING OPERATIONAL EFFICIENCY	
<u>Annual Tax Return Filings</u>	<u>Electronic Funds Transfer Dollars</u>
2003 -- 78,177 e-filings	\$6,494,897,865
2002 -- 57,456	5,932,910,897
2001 -- 37,604	5,707,031,586
2000 -- 14,716	5,686,097,197

The Imaging System for new business registration has been efficient by:

- (1) Reducing the steps required to process information from 22 to 8; and
- (2) Decreasing the production time from 6 weeks to 3 days.

The Commissioner also informed the committee of the savings due to an increased use of technology and automation, including the Predictive Dialer Technology which has saved the state an estimated \$30,400. The Department also has a projected savings of \$47,000 in postage due to a reduction in the Hall Income Tax scheduled mailings.

During this past year, the Department has had several challenges to overcome. The first mandate affecting the Department is the implementation of the Streamlined Sales Tax. The Commissioner spoke at length about the new Streamlined Sales Tax and resources available to answer taxpayers' questions such as the new hotline and website. The lottery is another area that has required much of the Department's attention. They have monitored thousands of lottery retailer applications using the new imaging technology and four full-time departmental employees. The third departmental mandate includes the administration and enforcement of new tobacco laws (regarding 2003 PC 264).

During the past fiscal year (FY 02-03), the Department of Revenue has had a very good cost-benefit analysis with \$1.2 Million as the average assessment per Field Auditor and \$1.6 Million as the average collection per Tax Enforcement Officer.

The Department will focus on new revenue generating projects during the next fiscal year. The objectives to achieve this include implementing:

continued on the next page

- (1) A Data Warehousing Program to identify non-filers and under-filers;
- (2) Additional Audit Discovery projects in the Franchise/Excise tax, Use tax, Gift tax, and Hall Income tax; and
- (3) Additional Tax Enforcement resources.

Performance Measures were also discussed. The Commissioner clarified that the projected decline in 6 of the 7 performance measures was due to the alleviation of more lenient measures. Thus, only the most stringent measures will remain and necessitate completion.

Department of Safety

Greg E. Adkins

Research Analyst, Transportation, Conservation & Environment

Fred Phillips, the Commissioner of the Department of Safety, presented the House Finance Committee the Department's budget, proposed cuts, and proposed improvements on Wednesday, February 18, 2004. The recommended budget for Fiscal Year 2004-2005 will enable the department to provide the statutorily mandated law enforcement, driver licensing, titling and registration services for the citizens of Tennessee. The Department of Safety is currently beginning to implement performance based budgeting practices.

The proposed budget reflects reductions of 3.5% in state appropriations totaling (\$3,784,700). None of the reduction require general law changes. Two areas have been identified for cuts, as outlined below:

1. Staffing and Operations--(\$3,457,800)

Reduction of excess salaries and benefits will be offset by retiring employees and replacing them with entry-level salary employees. The reduction also includes reducing, travel, supplies, rent, professional services, and equipment.

2. Police Pay Supplements--(\$326,900)

Reduce funding for the Police Pay Supplements by 5% in Fiscal Year 2004-05.

Total Cuts--(\$3,784,700)

The following improvements were recommended by the Department of Safety:

1. New 2006 License Plate--\$5,371,100

This funds the issuance of a new license plate on January 1, 2006, as authorized by TCA 55-4-103(h). The last issuance was in 2000.

2. Commissioned Officer Salary Survey Raises--\$1,400,100

This funds salary increases resulting from the annual commissioned officer salary survey pursuant to TCA Title 4, Chapter 7, Part 2. This represents a cost of living raise of approximately 2.6%.

3. Statutory Salary Step Increase--\$745,900

This funds the mandated annual trooper salary step increase pursuant to TCA Title 4, Chapter 7, Part 2. Approximately 40% of the troopers receive this increase if they have less than eleven years of service.

4. Titling and Registration--\$5,000,000

This money comes from motor vehicle registration fees to fund start-up costs of the new TRUST computer system, which is expected to be fully implemented by the end of 2005. This appropriation is set to sunset on June 30, 2004 and is from that dedicated revenue tax source.

4. County Services--\$1,214,200

This funding provides for an increased number of motor vehicle title and registrations issued by county clerks and for driver license express services provided by 43 county clerks.

Total Improvement Request--\$13,731,300

The operational budget in FY 2003/04 was \$165,013,400. The budget was reduced to \$164,104,400 in FY 2004/05, representing an **actual base budget reduction of .6%** after improvements.



Tennessee Bureau of Investigation

Paige Edwards

Research Analyst, Judiciary

On Wednesday, February 18, 2004, the Tennessee Bureau of Investigation (TBI) presented its budget for fiscal year 2004-2005. Mr. David Griswold, Interim Director, presented the proposed budget to the House Finance, Ways, & Means Committee.

Mr. Griswold presented two adjustments in the proposed budget to comply with the 5% mandated budget cut for the upcoming fiscal year. These adjustments include providing criminal history record information to the public and revising the present law to defray costs associated with the expunged criminal offender and pretrial diversion database. HB 3379 by Representative Coleman and HB 2277 by Representative Coleman contain the proposed adjustments. If enacted, the adjustments would result in **\$1,293,000** in additional service revenue generated by the TBI. The revenue would be generated from new services provided by the state and would not place additional burden on local government. Overall, these adjustments would enable TBI to operate with reduced state appropriations.

Also, Mr. Griswold presented a budget improvement request for fiscal year 2004-2005. Please note the table below.

	<u>State</u>	<u>Federal</u>	<u>Other</u>	<u>Total</u>	<u>Positions</u>
Computer Evidence Recovery Unit					
To provide funding to replace an expiring federal grant for computer evidence recovery. This will allow the TBI to retain three existing computer forensic specialist positions and one existing secretary position. This unit conducts investigations in computer crimes and specializes in the proper seizure and recovery of data-evidence from computers.					
Sub-total	<u>\$264,300</u>	<u>\$0</u>	<u>\$0</u>	<u>\$264,300</u>	<u>4</u>
	\$264,300	\$0	\$0	\$264,300	4
Fingerprints					
To provide funding to replace an expiring federal grant funding overtime costs for latent fingerprint examination. Three new latent print examiners should reduce the current 16-week turnaround time for latent print examinations.					
Subtotal	<u>\$238,800</u>	<u>\$0</u>	<u>\$0</u>	<u>\$238,800</u>	<u>3</u>
	\$238,800	\$0	\$0	\$238,800	3
Total Tennessee Bureau of Investigation	<u>\$503,100</u>	<u>\$0</u>	<u>\$0</u>	<u>\$503,100</u>	<u>7</u>

TBI summary continues on the next page

After Mr. Griswold presented these budget improvements, discussion ensued concerning the Drug Investigation Division. Representative Newton commented that the TBI needed more agents in this division because of the growing problem with methamphetamines in the state. Currently, there are 36 agents, 4 secretaries, and 1 analyst in this division. The Drug Investigation Division's staff has not increased since 2000.



Department of the Military

Rachel Thomas

House Research Division

On Wednesday, February 18, 2004, the Finance, Ways, and Means Committee convened to hear budget hearings on the Department of the Military given by Major General Gus Hargett Jr. General Hargett informed the committee that there are currently 14,056 active members of the Tennessee National Guard, of which 1938 (13.8%) are currently on assignment abroad. Within the next several months, 882 of these men and women will return home, leaving 1,056 Guardsmen on international assignment. In the past year, Tennessee National Guardsmen have been deployed in over 60 countries.

The Department of the Military is comprised of divisions which include the Army National Guard, the Air National Guard, and the Tennessee Emergency Management Agency (TEMA). However, the Department is organized, led, and directed by three functional areas:

•**Administration-** Performs all fiscal and administrative duties for the department, maintains war records of all soldiers from Tennessee, and oversees the maintenance of Tennessee Army National Guard armories.

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•**National Guard-** First-line reserve for the active duty Army and Air Force. The National Guard can be called upon to assist in emergency situations such as riots, rescues, and disasters.

•**Emergency Management-** Responsible for directing and assisting state and local governments in times of man-made or natural disasters. Its purpose is to warn of possible disasters and to protect the lives and property of Tennessee citizens and visitors should such an event occur.

BUDGET

The total recommended budget for FY 2004-05 for the Department of the Military is \$96,292,900 (\$9,117,700 state funding; \$85,385,800 federal funding; and \$1,789,400 other funding), which includes \$445,800 in improvement requests.

ARMY NATIONAL GUARD FUNDING

Source of Funds	Amount
State	\$784,200
Federal	\$6,690,600
Other	\$557,800
Total	\$8,032,600

AIR NATIONAL GUARD FUNDING

Source of Funds	Amount
State	\$1,507,800
Federal	\$10,519,400
Other	\$4,700
Total	\$12,031,900

TENNESSEE EMERGENCY MANAGEMENT AGENCY

Source of Funds	Amount
State	\$2,279,700
Federal	\$58,536,000
Other	\$863,600
Total	\$61,679,300

Improvements

The \$445,800 sum would be allocated to a tuition assistance program for the National Guard. Currently, the federal government supplies 75% of Guardsmen's tuition payments, and with the additional funding, the Tennessee Department of the Military could supplement the remaining 25%. General Hargett expressed that this requested improvement would make Tennessee's program competitive with those of neighboring states—many of which attract Tennessee natives. As of now, all nine border states provide moderate to generous tuition assistance programs for their Guardsmen, whereas Tennessee has yet to implement any such program.

Budget Cuts

The Department of the Military also made cuts totaling \$243,000. General Hargett noted, however, that federal funding will compensate most of these cuts.

Program/Adjustment	Funding Saved
Abolish one full-time information systems position and associated expenditures	\$82,300
Extend the computer replacement cycle	\$41,100
Use budgeted federal funds instead of state appropriations to pay for security guard expenses at the National Guard armories	\$114,900
Reduce office supply expenditures	\$5,000
Total reductions	\$243,300

FEDERAL FUNDING

A vast portion of the Department of the Military's funding is supplied by the federal government. Not only are all National Guardsmen's salaries paid with federal funds, but TEMA also has the responsibility of distributing monies to cities and communities across the state who have received federal grants. These grants are awarded in a variety of areas, but some of the most well endowed are Homeland Security and disaster relief. General Hargett told the committee that TEMA was currently saturated with federal monies as it works on the distribution of FY 2002-03 grants totaling \$90,440,010 (\$42,000,000 of which is for Homeland Security). The Department expects a substantially larger amount in grants for the upcoming fiscal year.

OPERATIONAL STRENGTH AND READINESS

Federal guidelines designate levels of operational readiness and the necessary funding for each level. Within the Tennessee Department of the Military, the Army National Guard is funded at 90%, which means that a maximum of 90% of the approved positions can be filled. Currently, 10,543 of 11,961 possible positions, or 88%, are filled—of these, 8% are women and 13.5% are African-Americans. The Air National Guard is operating at 95% capacity with 3,513 of 3,702 approved positions filled. Women comprise 19% of these positions and African-Americans account for 18%.

Office of Homeland Security

Judy Narramore

Research Analyst, Health & Human Resources

On Wednesday, February 18, 2004, Deputy Director Rick Shipkowski appeared before the Finance, Ways & Means Committee to present the budget for the Office of Homeland Security. The **budget request for FY 2004-05 totals \$2,030,200**, which includes \$843,100 state dollars and \$1,187,100 federal funding. Twelve of the 19 positions for Homeland Security are paid for with federal funds; the remaining seven are state funded.

To comply with Governor Bredesen's 5 percent budget reduction, the Office of Homeland Security will reduce travel and payments to other state agencies, representing a \$44,400 reduction. Homeland Security did not request improvements for FY 2004-05.

continued on the next page

Federal homeland security funds were first received in Tennessee in 2003. The Office of Homeland Security, a staff division of the Governor's Office, has received widespread cooperation across the state, a point often stressed by Director Shipkowski. Homeland Security has established a functional office through a task force approach that includes a myriad of agencies, i.e., Department of Safety, Department of Military, U.S. Department of Military, U.S. Department of Energy, Oak Ridge National Laboratories (ORNL), Y-12, TVA Police, and Belle Meade Police. In addition, three regional homeland security offices, recently set up with federal funding and county in-kind contribution, are located in Madison, Maury, and Hamblen Counties.

The state Homeland Security Council has distributed more than the required 80 percent of homeland security grant funds to local jurisdictions. According to Director Shipkowski, Tennessee is one of the few, if not the only state, which has done that. The remainder of the funding (16-17 percent) has been spread among several departments and agencies.

Administrative Office of the Courts

Greg E. Adkins

Research Analyst, Conservation & Environment, Transportation

Cornelia Clark, the Director of the Administrative Office of the Courts (AOC), presented the House Finance Committee the AOC's budget and proposed improvements on Wednesday, February 18, 2004. The recommended budget for Fiscal Year 2004-2005 will enable the AOC to provide the statutorily and constitutionally mandated legal system for the citizens of Tennessee. The Tennessee court system is comprised of a State Supreme Court, Intermediate Appellate Courts, Trial Courts, Courts of Limited Jurisdiction, and Court services and support. The Judicial Branch is one of the three basic divisions of state government and functions as a "check and balance" of the Legislative and Executive Branches of government.

The proposed budget for fiscal year 2004/05 reflects no reductions in state appropriations. The Administrative Office of the Courts requested the following improvements:

1. Judges' Salary Cost of Living Adjustment--\$592,000

This funds the judges' salary increase mandated by TCA 8-23-103.

2. Funding for the .10 to the .08 Blood Alcohol DUI Cases--\$450,000

Public Chapter 855 of 2003 reduced the blood alcohol level from .10 to .08, which triggers the DUI offense. This funds the increased amount of indigent defendant's cases.

Total Improvement Request--\$1,042,000

The recommended budget for the court system for fiscal year 2004/05 totals \$91,596,900 and is comprised of \$87,967,200 state appropriations, \$200,000 federal revenue, and \$3,429,700 interdepartmental and other

revenues. Approximately 68% of the AOC's total state appropriation budget has been identified as non-discretionary pass-through funds mandated for specific entities. The operational budget in FY 2004/05 represents a **zero base budget reduction.**

Office of the Post-Conviction Defender

Shannon Romain

Research Analyst, Consumer & Employee Affairs, Children & Family Affairs

The Office of the Post-Conviction Defender appeared before the Finance, Ways and Means Committee last Wednesday. According to an office spokesperson, the office is experiencing a budgetary crisis, despite its exemption from the governor's mandated 5% budget reduction for this fiscal year as well as fiscal year 2004/2005. According to a spokesperson, the office may have to curtail its workload because the governor did not approve three critical improvements.

The Office of the Post-Conviction Defender was created in 1995 to "represent Tennessee death sentenced inmates in state post-conviction proceedings...who are unable to secure counsel due to indigence". The office recruits qualified attorneys to represent defendants in capital cases and provides continuing legal education and consulting services to those attorneys. Their duties are statutorily mandated; their budgetary needs are driven by their caseloads and ABA Guidelines.

The number of caseloads assigned to the office increases annually. At present, it represents 30 defendants, most of whom have been assigned to the office for more than two years. Because of the lengthy appeals process in death penalty cases, only 4 or 5 cases have been completely resolved or the clients are no longer in need of the services provided by the office. The office continues to represent clients that were assigned as far back as 1996. Two years is the shortest length of time that a case has ever moved through the office. Consequently, administrative costs have escalated over the years as new cases have been added to the existing heavy caseloads.

The Office reported that it is experiencing budgetary emergencies in three primary areas: duplication, travel, and staffing. For the last several years the office has exceeded its budget for duplication and travel. It has already exceeded its duplication budget for the current fiscal year. Printing, duplicating and travel costs are case related, and the office cannot make additional reductions without affecting client representation, according to Donald Dawson, a Post-Conviction Defender. He further stated that the current recommended line item amounts do not accurately reflect the actual amount of travel and duplication required by attorneys and staff.

In addition to the requested improvements for duplicating and travel, the office also requested three new positions for Mitigation Specialists. The Administrative Office of the Courts currently provides mitigation services. According to Mr. Dawson, the cost to outsource the services is greater than it would be to create three new positions within the office.

According to Mr. Dawson, "unless the legislature or the Tennessee Supreme Court directs the lower courts to delay post-conviction cases to permit...representation under the current budgetary limitations, [the office]... will be seriously advising the courts that [it] cannot take further appointments." The office's inability to accept new cases will directly result in an increased burden on the indigent defense fund that pays for private attorneys.

	Base 2004 -2005	Improvement 2004 -2005	Recommended 2004 -2005
Full-Time	14	0	14
Part-time	0	0	0
Total	14	0	14

Payroll	874,500	11,400	885,900
Operational	213,100	0	213,100
Total	\$1,087,600	\$11,400	\$1,099,000
State	1,087,600	11,400	1,099,000
Federal	0	0	0
Other	0	0	0

Tennessee District Attorneys General Conference

Rachel Thomas

House Research Division

The Finance, Ways, and Means Committee convened on Thursday, February 19, 2004 for budget hearings and was addressed by Executive Director James Kirby on behalf of the District Attorneys General Conference. The proposed budget for FY 2004-05 is \$61,715,600 and includes \$863,300 in improvements.

Improvements

Specifically, \$825,300 will be used to increase assistant Attorneys' General salaries and address the increasing DUI caseload, and \$38,000 will be used to fund child support enforcement. In addition to the approved improvements, Director Kirby requested funding for a number of improvements *not* included on the Governor's budget. These are as follows:

Program/Activity	Cost
Training coordinator and computer operations grant replacement funding	\$876,500
Weighted Caseload Study	\$11,583,900
Information systems replacement and maintenance	\$1,016,000
Office of criminal justice program grants replacement funding	\$784,200
Pro Tem District Attorney appointments	\$200,000
Expert witness fees	\$100,000
Operational funding for Knox, Hamilton, Davidson, and Shelby counties	\$754,700
Title VI compliance offer	\$49,700
Total	\$15,365,000

Budget Cuts

The District Attorneys General Conference cut 5% of their budget as follows, per the Governor's request.

Reduction	Total	Positions
VW coordination	\$1,497,600	33
ADA abolishment	\$738,200	11
In-house training reduction	\$24,400	0
Employee retirement /part-time	\$45,700	0
Department total	\$2,305,900	44

Contract Services

Director Kirby also explained the Conference's need for funding to supplement the Criminal History Records Information grant that will expire this year. This grant provides monies for two contracts with software programmers (which total \$248,800) who maintain the CAIN software system, which Director Kirby claims will be rendered useless without state appropriations. The system is, unfortunately, too complicated for administration by an on-site technical expert without a significant time lag.

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District Public Defenders Conference

Denise Sims

House Research Division

The fiscal year 2004-2005 budget for the Public Defenders Conference was presented by Executive Director Andy Hardin. Along with Director Hardin was Fiscal Services Director Kathy Hartman and Research and Training Director Jeff Henry.

The Conference's **recommended budget for '04-'05 is a total of \$28,149,100** of which \$27,096,100 are state dollars. The budget reflects two improvement items totaling \$428,000 - funds needed for reinstituting step raises and improvements connected with the new .08 (D.U.I.) legislation. Three full-time Public Defender positions are within the improvements.

The budget shows:

	<u>Estimated 03-04</u>	<u>Base 04-05</u>	<u>Improv. 04-05</u>	<u>Recomm. 04-05</u>	
District PDs (282 F/T, 10 P/T Staff)	\$22,741,300	\$22,691,900	\$ 428,000	\$23,119,000	(\$22,276,900 state)
Ex Dir, PDC (11 F/T Staff)	\$ 958,200	\$ 957,500	\$ 0	\$ 957,500	(\$747,500 state)
*Shelby PD	\$ 2,728,500	\$ 2,728,500	\$ 0	\$ 2,728,500	(\$2,728,500 state)
*Davidson PD	\$ 1,343,200	\$ 1,343,200	\$ 0	\$ 1,343,200	(\$1,343,200 state)
TOTAL	\$27,771,200	\$27,721,100	\$ 428,000	\$28,149,100	(\$27,096,100 state)

* Public Defenders for Shelby and Davidson Counties get direct appropriations with no administrative support or control from the Conference.

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The Research Review